

**82.36.450 Agreement with tribe for fuel taxes.** (1)

The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding motor vehicle fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state motor vehicle fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on May 15, 2007. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on May 15, 2007.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all motor vehicle fuel only from persons or companies operating lawfully in accordance with this chapter as a motor vehicle fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of motor vehicle fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed to be personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes. [2007 c 515 § 19; 1995 c 320 § 2.]

**Severability—Effective date—2007 c 515:** See notes following RCW 82.36.010.

Additional notes found at [www.leg.wa.gov](http://www.leg.wa.gov)

**82.36.460 Motor vehicle fuel tax cooperative agreement.** The department of licensing may enter into a motor vehicle fuel tax cooperative agreement with another state or Canadian province for the administration, collection, and enforcement of each state's or Canadian province's motor vehicle fuel taxes. [1998 c 176 § 49.]

**82.36.470 Fuel tax evasion—Seizure and forfeiture.**

(1) The following are subject to seizure and forfeiture:

(a) Motor vehicle fuel imported into this state by a person not licensed in this state in accordance with this chapter to import fuel;

(b) Motor vehicle fuel that is blended or manufactured by a person not licensed in this state in accordance with this chapter to blend or manufacture fuel;

(c) All conveyances that are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in (a) and (b) of this subsection, except where the owner of the conveyance neither had knowledge of nor consented to the transportation of the fuel by an unlicensed importer, blender, or manufacturer of fuel.

(2) Before seizing a common carrier conveyance, contract carrier conveyance, or a conveyance secured by a bona fide security interest where the secured party neither had knowledge of or consented to the unlawful act or omission, the state patrol or the department of licensing shall give the common carrier, contract carrier, or secured party, or their representatives within twenty-four hours, a notice in writing served by mail or other means to cease transporting fuel for any person not licensed to import, blend, or manufacture fuel in this state.

(3) Property subject to forfeiture under this chapter may be seized by the state patrol upon process issued by a superior court or district court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The state patrol has probable cause to believe that the property was used or is intended to be used in violation of this chapter and exigent circumstances exist making procurement of a search warrant impracticable. [2003 c 358 § 1.]

**Captions not law—2003 c 358:** "Captions used in this act are not part of the law." [2003 c 358 § 16.]

**Severability—2003 c 358:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2003 c 358 § 17.]

**82.36.475 Fuel tax evasion—Forfeiture procedure.**

In all cases of seizure of property made subject to forfeiture under this chapter, the state patrol shall proceed as follows:

(1) Forfeiture is deemed to have commenced by the seizure.

(2) The state patrol shall list and particularly describe in duplicate the conveyance seized. After the appropriate appeal period has expired, a seized conveyance must be sold at a public auction in accordance with chapter 43.19 RCW.

(3) The state patrol shall list and particularly describe in duplicate the fuel seized. The selling price of the fuel seized will be the average terminal rack price for similar fuel, at the closest terminal rack on the day of sale, unless circumstance warrants that a different selling price is appropriate. The method used to value the fuel must be documented. The fuel will be sold at the earliest point in time, and the total price must include all appropriate state and federal taxes. The state patrol or the department may enter into contracts for the transportation, handling, storage, and sale of fuel subject to forfeiture. The money received must be deposited in the

may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of contumacy by or refusal to obey a subpoena issued to, any person, any court of competent jurisdiction upon application by the director, may issue to that person an order requiring him to appear before the director, or the officer designated by him to produce testimony or other evidence touching the matter under investigation or in question. The failure to obey an order of the court may be punishable by contempt. [1979 c 40 § 20.]

**82.38.280 State preempts tax field.** (1) The tax levied in this chapter is in lieu of any excise, privilege, or occupational tax upon the business of manufacturing, selling, or distributing special fuel, and no city, town, county, township or other subdivision or municipal corporation of the state may levy or collect any excise tax upon or measured by the sale, receipt, distribution, or use of special fuel, except as provided in chapter 82.80 RCW and RCW 82.47.020.

(2) This section does not apply to any tax imposed by the state. [2010 c 106 § 231; 2003 c 350 § 6; 1991 c 173 § 5; 1990 c 42 § 205; 1979 ex.s. c 181 § 6; 1971 ex.s. c 175 § 29.]

**Effective date—2010 c 106:** See note following RCW 35.102.145.

**Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42:** See notes following RCW 82.36.025.

Additional notes found at [www.leg.wa.gov](http://www.leg.wa.gov)

**82.38.290 Disposition of funds.** All taxes, interest and penalties collected under this chapter shall be credited and deposited in the same manner as are motor vehicle fuel taxes collected under RCW 82.36.410. [1971 ex.s. c 175 § 30.]

**82.38.300 Judicial review and appeals.** Judicial review and appeals shall be governed by the Administrative Procedure Act, chapter 34.05 RCW. [1971 ex.s. c 175 § 31.]

**82.38.310 Agreement with tribe for fuel taxes.** (1) The governor may enter into an agreement with any federally recognized Indian tribe located on a reservation within this state regarding special fuel taxes included in the price of fuel delivered to a retail station wholly owned and operated by a tribe, tribal enterprise, or tribal member licensed by the tribe to operate a retail station located on reservation or trust property. The agreement may provide mutually agreeable means to address any tribal immunities or any preemption of the state special fuel tax.

(2) The provisions of this section do not repeal existing state/tribal fuel tax agreements or consent decrees in existence on May 15, 2007. The state and the tribe may agree to substitute an agreement negotiated under this section for an existing agreement or consent decree, or to enter into an agreement using a methodology similar to the state/tribal fuel tax agreements in effect on May 15, 2007.

(3) If a new agreement is negotiated, the agreement must:

(a) Require that the tribe or the tribal retailer acquire all special fuel only from persons or companies operating law-

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fully in accordance with this chapter as a special fuel distributor, supplier, importer, or blender, or from a tribal distributor, supplier, importer, or blender lawfully doing business according to all applicable laws;

(b) Provide that the tribe will expend fuel tax proceeds or equivalent amounts on: Planning, construction, and maintenance of roads, bridges, and boat ramps; transit services and facilities; transportation planning; police services; and other highway-related purposes;

(c) Include provisions for audits or other means of ensuring compliance to certify the number of gallons of special fuel purchased by the tribe for resale at tribal retail stations, and the use of fuel tax proceeds or their equivalent for the purposes identified in (b) of this subsection. Compliance reports must be delivered to the director of the department of licensing.

(4) Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement shall be deemed personal information under RCW 42.56.230(3)(b) and exempt from public inspection and copying.

(5) The governor may delegate the power to negotiate fuel tax agreements to the department of licensing.

(6) The department of licensing shall prepare and submit an annual report to the legislature on the status of existing agreements and any ongoing negotiations with tribes. [2007 c 515 § 31; 1995 c 320 § 3.]

**Severability—Effective date—2007 c 515:** See notes following RCW 82.36.010.

Additional notes found at [www.leg.wa.gov](http://www.leg.wa.gov)

**82.38.320 Bulk storage of special fuel by international fuel tax agreement licensee—Authorization to pay tax at time of filing tax return—Schedule—Report—Exemptions.** (1) An international fuel tax agreement licensee who meets the qualifications in subsection (2) of this section may be given special authorization by the department to purchase special fuel delivered into bulk storage without payment of the special fuel tax at the time the fuel is purchased. The special authorization applies only to full truck-trailer loads filled at a terminal rack and delivered directly to the bulk storage facilities of the special authorization holder. The licensee shall pay special fuel tax on the fuel at the time the licensee files their international fuel tax agreement tax return and accompanying schedule with the department. The accompanying schedule shall be provided in a form and manner determined by the department and shall contain information on purchases and usage of all nondyed special fuel purchased during the reporting period. In addition, by the fifteenth day of the month following the month in which fuel under the special authorization was purchased, the licensee must report to the department, the name of the seller and the number of gallons purchased for each purchase of such fuel, and any other information as the department may require.

(2) To receive or maintain special authorization under subsection (1) of this section, the following conditions regarding the international fuel tax agreement licensee must apply:

(a) During the period encompassing the four consecutive calendar quarters immediately preceding the fourth calendar quarter of the previous year, the number of gallons consumed